THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.18899 of 2006

Dated: 14.08.2007

Between:

Kunche Sanyasi.

..... PETITIONER

AND

The Agent to the Government, East Godavari District and others.

.....RESPONDENTS

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.18899 of 2006

ORDER:

Fourth respondent herein, namely, the Special Deputy Tahsildar (Tribal Welfare), Gangavaram, East Godavari District, filed LTRP No.91 of 2003 before third respondent under Section 3(2) of the Andhra Pradesh Scheduled Areas Land Transfer Regulation, 1959 (the Regulation, for brevity) as amended by the Regulation I of 1970 for eviction of the petitioner from land to an extent of Acs.5.82 in survey No.26-2. It was alleged therein that the petitioner is in possession of the land in contravention of the Regulation. After conducting enquiry, third respondent dropped the proceedings holding that the possession of the land with the petitioner under an agreement dated 04.10.1969 is not in violation of the Regulation. Fourth

respondent filed C.M.A.No.75 of 2005 before second respondent, namely, the Additional Agent to the Government, which is pending. At that stage the Government issued G.O.Ms.No.193 dated 17.04.2002 conferring powers on the Project Officers to exercise powers under the Regulation. Aggrieved by the same instant writ petition is filed.

A Division Bench of this Court to which I was a Member in W.P.No.1241 of 2005 and batch by common order dated 09.08.2007 considered the constitutional validity of G.O.Ms.No.193 dated 17.04.2002 and rejected all the contentions arriving at the following conclusions.

1. The impugned notification issued vide Notification No.193, dated 17.04.2002 does not suffer from any vice or invalidity by reason of not being assented to by the President of India under Paragraph 5(4) of Fifth Schedule to the Constitution of India.

2. By reason of impugned Notification issued by Governor of Andhra Pradesh under Paragraph 5(1) of Fifth Schedule, Section 3 of Delegation Act is also applicable to the Regulation I of 1959 made by the Governor under Paragraph 5(2) of Fifth Schedule.

3. There is no illegality or infirmity in Government of Andhra Pradesh designating Project Officers of Integrated Tribal Development Agencies as Additional Agent to Government in scheduled areas for the purpose of Regulation I of 1959, and exercise powers of Agents under the said Regulation.

4. The Additional Agent to the Government (Project Officer, ITDAs) is subordinate to the District Collector, though he exercises concurrent jurisdiction under Regulation I of 1959 and therefore, it is competent for the District Collector to transfer cases pending before him including the Appeals under Section 3(3)(a)(iii) to the Additional Agent.

Following the above judgment, this writ petition is dismissed and the petitioner is given liberty to approach third respondent, who is directed to dispose of the matter. No costs.

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(**V.V.S.RAO, J**)

14th August, 2007
ghn